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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,893	10/24/2003	Kent W. Savage	40059-0008	8706
24247 7590 05/14/2008				
TRASK BRITT				
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EXAMINER				
SHAY, DAVID M				
ART UNIT		PAPER NUMBER		
3735				
NOTIFICATION DATE		DELIVERY MODE		
05/14/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTOMail@traskbritt.com

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/692,893	Applicant(s) SAVAGE, KENT W.
Examiner david shay	Art Unit 3735

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED April 10, 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☒ Applicant's reply has overcome the following rejection(s): new matter.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.

Claim(s) objected to: none.

Claim(s) rejected: 1-23, 25, 56-67 and 69-97.

Claim(s) withdrawn from consideration: none.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☒ Other: See Continuation Sheet.

/david shay/
Primary Examiner, Art Unit 3735

Continuation of 13. Other: There are still indefiniteness issues with regard to claim 85, as it is unclear how the recited "rotating" therein further limits the claimed "transition" of the "pivotally connected" cover. Similarly the limit on the dimensions set by claims 88 and 91 is unclear. With regard to Witcher there is no assertion that the output thereof is "less than 2,500 lux" as claimed thus the rejections based on Witcher et al still apply. With regard to Marsh, it is not necessary that the disclosure of Marsh teach ocular therapy if it can be shown that the light is enough to provide light therapy as disclosed in the instant disclosure, which Marsh does. Further the assertion that the housing of Marsh is not portable is not supported by the fact that it is "configured" to be affixed to an object which applicant does not consider portable. With regard to Penderson, there is no structure in penderson which prevents the user from using the device at a distance of 12 feet, the rejections of claims 83 and 93 and their dependents is overcome by the amendment. With regard to Kulebs, there is a portion of the device which is pivotally connected to the umbrella portion and which will cover at least some of the lights therein regardless of the descriptor (pole, shaft, etc) applicant or Kulebs choose to use to indicate it and this portion in combination with other elements of Kulebs reads on the cover recited in the claims. With regard to Yano, the flat portion of the cover can clearly rest flat on a flat surface. With regard to the obviousness rejection involving Witcher, Arao, and the HP user's guide, given the ubiquitousness of laptops, the configurations of the covers thereof are well known, employing such configurations to function in exactly the same way in a device which is observed by the user in during the use thereof is an obvious modification. With regard to the combination of Witcher and Terman Terman teaches the modification of illumination systems, without limitation to systems used solely for illumination, nor are "high intensity lamps" mentioned anywhere in the disclosure thereof, thus these arguments are not convincing. With regard to the combination of Penderson and Marsh, penderson only teaches away from fluorescent bulbs in the context of being "large" and "not generally portable" limitations which do not apply to CCFLs, thus this argument is not convincing. As is clear from the foregoing all rejections except those specifically stated as no longer applicable herein, still apply to the claims even as amended. Thus applicant's assertions to the contrary are erroneous and not convincing.